

**REMARKS**

Prior to this Amendment, claims 1-43 were pending in this application. Claims 1, 36 and 41 have been amended. Claim 35 has been canceled. Applicants respectfully request reconsideration of this application in view of the following remarks.

**35 U.S.C. 103(a) Rejection, Matthews, Sher**

The Office Action has objected to claims 1, 13, 15, 18-20, 22-24, 27-35 and 41 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,321, 403 to Matthews (hereinafter "Matthews"), in view of U.S. Patent No. 5,367,730 to Sher (hereinafter "Sher").

As currently amended, claim 1 recites a sleep positioner with a body region with a top surface for interacting with a pair of support cushions. Also, a support pillow extends from the body region for supporting the infant's head. Importantly, the body region extends outward in a direction away from the support pillow such that the width of the body region is larger than the width of the support pillow. Such a feature is described, for example, in paragraph 26 and in Fig. 1, and also claimed in dependent claim 35. The extended width of the body region permits the support cushions to be moved laterally beyond the support pillow so that the support pillow may be secured around the infant's head while the support cushions are nestled against the baby's sides to hinder the baby from rolling.

Nowhere in the Matthews or the Sher are such limitations either taught or suggested. For example, as shown in Fig. 1 of Matthews, the body region is essentially co-linear with the outer perimeter of the body region. Hence, claim 1 as amended to include such a feature is distinguishable and in condition for allowance.

Claims 13, 15, 18-20, 22-24 and 27-34 depend from claim 1 and are distinguishable for at least the same reasons.

Independent claim 41 claims a method for maintaining an infant in a supine position and utilizes a sleep positioner with a body region, a pair of support cushions and a support pillow. As part of the method, claim 41 as now amended recites that "the body region extends laterally outward from the support pillow such that a width of the body region is larger than a width of the

support pillow.” Also, at least one of the first support cushion and the second support cushions are adjusted to fit against a side of the infant such that at least a portion of the first and second support cushions are laterally beyond the support pillow. As described above, the Matthews and the Sher patents fail to teach or suggest such a limitation. Hence, claim 41 as amended is distinguishable and in condition for allowance.

**35 U.S.C. 103(a) Rejection, Matthews, Sher, Clute**

The Office Action has objected to claims 2-8, 36-39 and 42 under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Sher, and further in view of U.S. Patent No. 5,357,642 to Clute (hereinafter "Clute").

Claims 2-8 depend from claim 1 and are distinguishable over the Matthews and Sher patents for at least the reasons previously described. Since the Clute patent also fails to teach or suggest such limitations, claims 2-8 are also distinguishable and in condition for allowance. Moreover, nowhere in the Clute reference is there any teaching or suggestion of an activation mechanism that is activated by depressing the support cushion. Hence, claim 5 is distinguishable for this additional reason.

As now amended, independent claim 36 claims a sleep positioner with a body region, a pair of support cushions and a support pillow. The body region has a top surface forming loop fasteners so that it may engage with the support cushions that have hook fasteners. Also, the bottom surface of the body region is constructed of a waterproof material. In this way, the top region can be soft and cushiony, while still being able to engage with the hooks on the support cushions, while the bottom region is waterproof to prevent liquids from leaking through the body region.

None of the cited art, alone or in combination teaches the use of a sleep positioner where the body region has a top surface with loops on it and a bottom surface that is waterproof, Hence, claim 36 as amended is distinguishable and in condition for allowance.

Claims 37-39 depend from claim 36 and are distinguishable for at least the same reasons.

Claim 42 depends from claim 41 and is distinguishable over Matthews and Sher for at

least the reasons previous described. Since the Clute reference also fails to teach such limitations, claim 42 is distinguishable and in condition for allowance.

**35 U.S.C. 103(a) Rejection, Matthews, Sher, Clute, Deleo**

The Office Action has objected to claims 9-12, 40 and 43 under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Sher to Clute, and further in view of U.S. Patent No. 6,054,926 (hereinafter "Deleo").

Claims 9-12 depend from claim 1, claim 40 depends from claim 36 and claim 43 depends from claim 41. These independent claims are distinguishable over the cited art for at least the reasons described above. Hence dependent claims 9-12, 40 and 43 are distinguishable for at least the same reasons.

**35 U.S.C. 103(a) Rejection, Matthews, Sher, Butler**

The Office Action has objected to claim 14 under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Sher, and further in view of U.S. Patent No. 5,551,108 (hereinafter "Butler"). Claim 14 depends from claim 1 which is distinguishable over Matthews and Sher for at least the reasons described above. Because the Butler patent also fails to teach such limitations, claim 14 is distinguishable and in condition for allowance.

**35 U.S.C. 103(a) Rejection, Matthews, Sher, Reece**

The Office Action has objected to claims 25-26 under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Sher, and further in view of U.S. Patent No. 5,450,640 (hereinafter "Patton et al."). Claims 25 and 26 depend from claim 1 which is distinguishable over Matthews and Sher for at least the reasons described above. Because the Patton patent also fails to teach such limitations, claim 25 and 26 are distinguishable and in condition for allowance.

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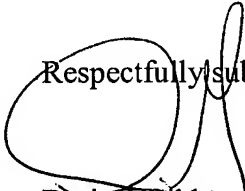
**REQUEST FOR A TELEPHONE INTERVIEW**

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Respectfully submitted,

  
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